REMARKS

In the Office Communication dated July 1, 2003, the Examiner held that the Amendment filed June 12, 2003 was non-responsive as presenting only claims drawn to a non-elected invention. Applicants respectfully traverse.

The remarks that follow reflect Applicants' understanding of the current Election of Species practice as it has evolved in the United States Patent and Trademark Office (U.S. PTO). It is Applicants' firm conviction that under the laws of the United States, the policy followed at the U.S. PTO and within Technology Center 1600 there, and in equitable fairness, that this understanding is correct. Although a telephone contact was attempted with Examiner Spector, this attempt was not successful. Nevertheless, in a telephone conversation on July 15, 2003, with Brian Stanton, Quality Assurance Specialist for Technology Center 1600, Applicants' understanding reflected below as to the appropriate application of Election of Species practice was confirmed as correct.

In the Office Action dated September 3, 2002, Applicants were presented with an Election of Species Requirement. There was no Restriction Requirement, only an Election of Species Requirement. In response thereto Applicants elected a species for initial examination purposes and upon which a first Office Action on the merits was mailed on December 12, 2002. In response to this Office Action, Applicants presented new claims not encompassing the originally elected species in the Amendment filed June 12, 2003. Although the claims are new, the subject matter in these claims is directed to subject matter entirely within the scope of the claims that were examined in the Office Action dated December 12, 2002.

Accordingly, there is absolutely no basis to the assertion in the Office Communication dated July 1, 2003 that the Amendment filed June 12, 2003 presents "only claims drawn to a non-

elected invention." Similarly, the citation in the Office Communication to MPEP § 821.03 is without relevance. This section of the MPEP is directed to encountering Amendments containing claims drawn to subject matter not previously claimed which is not the factual instance at issue in this prosecution.

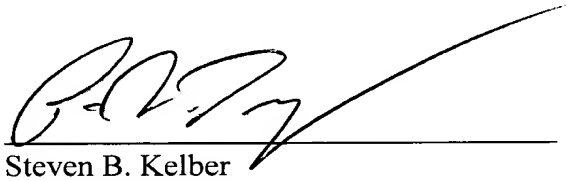
Applicants are entitled, as a matter of right, to amend their claims as they see fit in response to any rejection. In so far as the subject matter of the claims is merely narrowed in scope, and if such a narrowing amendment is in response to rejection that is not a final rejection, Applicants are entitled to an examination on the merits of those claims provided that the filing formalities are met, and the fee is paid. Applicants respectfully request that the examination of the claims presented in the Amendment dated June 12, 2003, proceed accordingly.

CONCLUSION

In the event that the Examiner does not decide to examine the application on the merits with the claims as filed in the Amendment filed June 12, 2003, Applicants respectfully request a courtesy call to notify Applicants as soon as possible of this determination. If any other points remain in issue that the Examiner feels may be best resolved through a personal or telephonic interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

PIPER RUDNICK LLP



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